



October 1, 2002

**FILED ELECTRONICALLY**

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Ex Parte Notice in CC Docket Nos. 01-338, 96-98 and 98-147

Dear Ms. Dortch:

This letter is to provide notice in the above-captioned proceedings of ex parte meetings on September 30, 2002 by Jonathan Lee and the undersigned of The Competitive Telecommunications Association ("CompTel"), Scott Dulin and Reid Weisbrod of ATX/Corecomm, Andoni Economou of MetTel, David Malfara of REMI Communications, Kimberly Scardino of WorldCom and Tom Koutsky of Z-Tel Communications. The parties met with the following members of the Federal Communications Commission staff: Rob Tanner, Jeremy Miller, Aaron Goldberger, Elizabeth Yockus, Gina Spade, Ben Childers, Shanti Gupta, Daniel Shiman, Tom Navin, Scott Bergman, and Claudia Pabo. In addition, parties met with Christopher Libertelli, Legal Advisor to Chairman Powell, and Matthew Brill, Legal Advisor to Commissioner Abernathy. Pursuant to Section 1.1206 of the FCC's rules, our presentation and this letter are being filed electronically for inclusion in the public record of each of these dockets.

Please contact the undersigned if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink that reads "Maureen Flood". The signature is written in a cursive, flowing style.

Maureen Flood  
Director, Regulatory and State Affairs



August 17, 2002

Camie Swanson-Hull  
Commissioner  
Indiana Utility Regulatory Commission  
Indiana Government Center South  
302 W. Washington Street, # E-306  
Indianapolis, IN 46204

Dear Commissioner Swanson-Hull:

The coming months could prove to be pivotal to the development of widespread, meaningful local telecommunications competition throughout the nation. Decisions made on the federal level could adversely affect state regulators' ability to make decisions about how to bring choice to their residents. On behalf of the Competitive Telecommunications Association (CompTel), I am writing to alert you that, despite the advent of competitive local telephone service on a national basis since the passage of the Telecommunications Act of 1996, several proceedings are underway at the Federal Communications Commission (FCC) that threaten the long-term growth of local competition in every state.

Of particular importance is the FCC's *Triennial Review of Unbundled Network Elements (UNEs) Rulemaking* (CC Docket Nos. 96-98, 98-147, 01-338). This proceeding could hinder all competitors' opportunities to bring choice, innovation and savings to customers of all types and sizes. Additionally, depending on the FCC's final rules, state regulators could be prevented from developing state-specific policies that would allow competition to continue to flourish within your borders.

The *Triennial UNE Review* proceeding potentially threatens the current minimum list of elements that the incumbent Bell companies are required to provide to competitive carriers. Without some of these basic elements, it would be impossible for competitors to reach their customers and provide unique, feature-rich services. Also, in the absence of robust competition, incumbent carriers would feel no pressure to improve service quality or reduce rates.

Incumbent local exchange carriers are attempting to convince the FCC to remove some of the current UNEs – particularly unbundled local switching (ULS) – from the minimum list of elements that incumbents are required to provide. If this happens, the existing UNE Platform (UNE-P), which includes a loop, switching and transport, would no longer be available, taking viable alternative offerings with it. Many competitive service providers rely on UNE-P to offer local service packages that are different from those offered by the incumbents. Rather than removing specific elements from the list and harming the availability of UNE-P, we believe that UNE-P must be preserved and, in fact, broadened through elimination of ULS restrictions. Without such limits, residential and small business customers who might not otherwise have a choice of service provider could reap the benefits of competition.

As you know, the National Association of Regulatory Utility Commissioners (NARUC) recognizes the need to preserve UNE-P. In fact, NARUC passed a resolution at its 113<sup>th</sup> Annual Convention in Philadelphia in November 2001 that encouraged states to ensure that their implementation of the Telecommunications Act of 1996 – including rates, terms and conditions available under interconnection agreements and state access regulations – does not favor one method of competitive entry at the expense of other methods, such as UNE-P.

NARUC also believes that states should be able to add to the federally mandated list of UNEs, based on state regulators' intimate knowledge of their markets and the specific needs of competitors to provide service in those markets. To that end, NARUC's UNE-P resolution urged state commissions to take an active role in studying and ensuring that mass market, residential and small business consumers enjoy the benefits of local competition promised by the 1996 Telecom Act.

Regulators in several states are already doing just that. In these states, the role that UNE-P plays in the development of meaningful competition is remarkably clear. States that have adopted aggressive wholesale rates for UNEs and removed the limitations that the FCC placed on local switching are experiencing remarkable competitive growth.

New York is a prime example, with CLEC penetration rates hitting approximately 27 percent – the highest in the nation – at the beginning of 2002. The main reason: there are no restrictions on ULS and the New York Public Service Commission made UNE-P available throughout the state. Other states, such as Texas, have lifted the FCC's ULS restrictions and are experiencing a competitive groundswell similar to that in New York. Georgia and Tennessee, as well, are examining whether to broaden the availability of ULS in hopes of ensuring that competitive options are available to their residents.

With these types of pro-competition policies in place in many states, competitive service providers have been able to use UNE-P to develop unique offerings that are winning residential and small business customers – two classes of customers who, in the past, have not been able to benefit fully from telecommunications alternatives.

CompTel represents many competitors that rely on UNE-P to bring choice to consumers. The executives of these companies understand how to use components of the existing public switched telephone network, in combination with their own technology and infrastructure, to deliver services that consumers want to purchase. Enclosed with this letter is a series of fact sheets that will provide you with details about how many of CompTel's member companies use UNE-P to successfully serve hundreds of thousands of residential and small business customers.

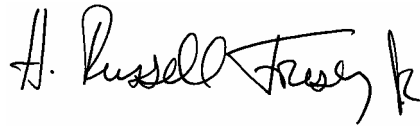
Moreover, as competition grows, prices are dropping. Just look at what's happening in Michigan. With more than 40 alternative providers in the state serving about 900,000 lines, SBC was forced to cut the cost of its basic local service by one-third in order to effectively compete. SBC's price reductions alone are expected to save its customers about \$26 million a year. (Editorial, *Competition Keeps Calling, But Local Bells Resist*, USA TODAY, July 17, 2002.) It is important to note that Michigan consumers are enjoying these benefits based on the efforts of the Michigan Public Service Commission, which has established some of the most aggressive UNE rates and unbundling policies in the nation.

CompTel believes that it is important that the states continue to stress to federal regulators that existing UNEs, including ULS, should be preserved, and perhaps even expanded, if residential and small

business customers are to have competitive choices. Furthermore, states should play a significant role in helping the FCC set the national minimum list of UNEs, because states understand the needs of their jurisdictions and are in the best position to thoroughly evaluate whether competitors' service would be impaired without access to specific elements. In fact, we believe it would be improper for the FCC to impose prescriptive national unbundling requirements on state commissions when the FCC-mandated requirements are based on lesser evidentiary standards than those used by state regulators in their decision-making processes. Already many states have found that existing national minimum unbundling requirements are insufficient to allow competition to flourish. For that reason, states have imposed additional unbundling related to advanced services and new networks, as well as local switching.

CompTel urges you to maintain your role in national telecommunications policy. Decisions being made at the FCC ultimately will affect the way you are able to make decisions and foster competition within your state. State regulators should have a seat at the table when it comes to any future changes to the existing list of UNEs. We also believe that state regulators need to examine what elements – beyond the national minimum – are needed to ensure that local competition can prosper. These actions are necessary and vital to ensure that the residents in your state are afforded the benefits of competition promised by the Telecommunication Act of 1996.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Russell Frisby, Jr.", with a stylized flourish at the end.

H. Russell Frisby, Jr.  
President

enclosures

## **Access Integrated Networks Inc.**

[www.accesscomm.com](http://www.accesscomm.com)

Access Integrated Networks provides superior customer service, with live customer care representatives available to answer all calls. The company also provides detailed billing, combining information about and charges for all services purchased on a single invoice.

- Over 30,000 small business customers are served by Access Integrated Networks via UNE-P.
- Services provided via UNE-P are available in:  
Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.
- Access Integrated Networks provides basic local service with vertical features, such as Caller ID, call waiting, call forwarding and three-way calling, if requested by the customer.
- The company also provides long-distance service at flat rates that are not distance sensitive.
- While packages of service currently are available, local, long distance and vertical features are all combined on the same invoice.
- Local service is priced at about 20 percent less than the prevailing incumbent rate. Vertical features cost \$3.50 for the first one purchased, and \$1 for each additional feature.

## **CoreComm Communications Inc.**

[www.core.com](http://www.core.com)

CoreComm Communications differentiates itself from the Bell companies by providing its customers with a consultative sales approach, which focuses on all of the customers' telecommunications needs. The company has a highly trained sales force that is well-versed in both voice and data services, and can assist customers with web site development and other Internet services. In addition, CoreComm allows its customers to individualize their service portfolio to include everything from competitively priced local and long distance calling plans, Centrex, toll-free services, Internet access, voice mail, cellular, paging, and calling cards.

CoreComm has expressed interest in offering advanced services, such as DSL, but has decided to forgo that opportunity until regulations and pricing associated with DSL stabilizes.

CoreComm provides customers with the ability to mix and match products and services and deal with only one service provider and one bill for all their communications needs.

- 32,100 small business and residential customers are served by CoreComm via UNE-P.
- Services provided via UNE-P are available in:  
Delaware, the District of Columbia, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and Wisconsin
- CoreComm bundles local calling, long distance, voice mail and Internet services over POTS, Centrex and analog/digital trunk service configurations. These services can be bundled in CoreComm residential and business offerings.
- CoreComm offers personalized pricing to business customers, but generally prices its UNE-P packages at approximately 10 percent less than prevailing ILEC rates.

**ITC^DeltaCom Inc.**  
[www.itcdeltacom.com](http://www.itcdeltacom.com)

ITC^DeltaCom brings innovative product packages and very competitive pricing to small business, presenting options not previously available in the BellSouth region. The company offers small businesses an alternative to the ILEC and differentiates services based on overall value, including competitive pricing and significant savings over BellSouth prices, customer service that is available 24 hours a day, 7 days a week (which BellSouth does not offer), creative product bundles, online billing and reporting, and a compelling message of one vendor, one invoice and one point of contact for all telecommunications needs.

ITC^DeltaCom would like to offer dedicated DSL service via a line-sharing arrangement with BellSouth through a wholesale UNE-P arrangement. However, the company said BellSouth has not shown interest in supporting DSL with line sharing of local on UNE-P.

- 6,000 small business customers are served by ITC^DeltaCom via UNE-P.
- Services are offered via UNE-P in eight BellSouth states:  
Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.
- ITC^DeltaCom offers packages of local, long-distance service and stand-alone options. The company also offers a wide variety of features and calling options, and phone systems and network-based services.
- One of ITC^DeltaCom's premier small business packages, SELECT 100, provides customers with unlimited local calls and an option for unlimited LATA-wide calls to eliminate confusion related to the calling boundaries. In addition the package includes 100 free domestic long-distance minutes per local line with a rate of \$.065 per minute rate for calls in excess of the allotted time. The company soon expects to add dial-up Internet service to the SELECT 100 package.
- ITC^DeltaCom also offers customers online billing and reporting via its online billing tool – eBillMaster.

## **Metropolitan Telecommunications (MetTel)**

[www.mettel.net](http://www.mettel.net)

MetTel provides consumers and businesses with a choice of carrier, delivering better service, bundled offerings and consolidated billing statements at lower prices than the local incumbent. Usage of UNE-P allows MetTel to seamlessly convert customers from their former carriers, without the risk that their service may be disconnected during the transition.

MetTel is able to provide advanced services, such as DSL and Internet T1s, to its customers through UNE loops purchased from the incumbent carrier.

- Approximately 85,000 residential, small business and enterprise customers are served by MetTel via UNE-P.
- MetTel's markets include:  
New York, New Jersey, Pennsylvania, Massachusetts, and Florida.
- Voice services include local, toll-free, long distance, international, calling cards, POTS, Centrex, PBX, ISDN and voice messaging.
- Data services include private line, frame relay and ATM.
- MetTel also offers DSL and T1s for Internet access.



**nii Communications Ltd.**  
[www.niicommunications.com](http://www.niicommunications.com)

nii differentiates itself from the Bell company by its customer service, which includes live customer service representatives available 24 hours a day. The company is able to be more flexible and empowered in terms of modifying existing products or creating new products to meet its customers' needs. With nii, customers can expect to save money, are treated better, receive a much simpler invoice and can talk to a customer service representative any time of the day or night.

Beyond the basic telecommunications service offerings, nii offers SDSL (symmetrical digital subscriber line) through wholesale agreements with DSL providers over dedicated UNE loops. However, the company is not allowed to use line splitters on its own UNE loops, so it is precluded from offering SDSL in competition with the incumbent. nii also can offer ISDN services via resale or UNE-P from Southwestern Bell.

- 8,000 customers are served by nii via UNE-P. While most of these are business customers, nii serves a limited number of residential subscribers, all of whom also are business subscribers or employees.
- Service via UNE-P is available in Southwestern Bell Telephone operating territories in Oklahoma and Texas. nii has customers in almost every Southwestern Bell exchange in Texas. In Oklahoma, nii customers are primarily located in the city of Lawton, but the company serves many other exchanges in the state.
- Among the services offered a la carte at discounted rates are local dialtone, conference calls, voice mail, custom calling features, long distance, web site hosting and development, and Internet services.
- Bundles that incorporate some or all of these elements are available at a flat, monthly rate. Examples of the packages in Texas:
  - \$39.95 (local, almost every custom calling features and 60 min. of long-distance in the state)
  - \$54.50 (local, all custom calling features, 250 min. of toll and dial-up Internet)
  - \$65 (local, all custom calling features, 450 min. of toll, and dial-up Internet)
  - \$80 (local, all custom calling features, all toll calls under 20 min. in length and dial-up Internet)

## **United Communications Inc. (Unicom)**

[www.ucinet.com](http://www.ucinet.com)

Unicom believes that its personal customer service and lower prices set it apart from the local incumbent.

- More than 2,000 small business customers and 1,600 residential customers are served by Unicom via UNE-P.
- Unicom provides services in Oregon and Washington.
- Among the services offered by Unicom are trunks, lines, Centrex and other business features.
- Bundled services include combinations of local services with features, long distance and Internet access and interconnect services.
- In Qwest territory, Unicom charges \$24 per line for basic month-to-month service. Substantial discounts are available with term plans.
- In Verizon territory, the basic month-to-month charge is \$19 to \$22 per line. Substantial discounts are available with term plans.

## **Z-Tel Communications Inc.**

[www.z-tel.com](http://www.z-tel.com)

UNE-P allows Z-Tel to layer unique, powerful communications services atop basic telephone lines – an offering that the Bell companies cannot match. Z-Tel is able to provide its proprietary enhanced services over the public network, bringing the company’s vision of “Intelligent Dial Tone” to life. Intelligent Dial Tone means that the phone line is imbued with intelligence and can be personalized for individual users, making their communications simpler and more powerful. Z-Tel deploys from its own network enhanced services, such as Internet-accessible voice mail; message notification via e-mail, cell phone or pager; and “Find Me” multiple number call forwarding. Customers also get personalized web space, from which they can customize features; check and manage their voice mail messages; manage an online address book; view and pay bills; and conduct live chat sessions with customer care professionals.

Z-Tel offers all of these services, plus traditional CLASS features, local and long distance, on one bill for at least 20 percent less than most consumers are now paying for wireline telecommunications services.

- 261,000 residential and small business customers are served by Z-Tel via UNE-P.
- Residential and business services are available from Z-Tel in Alabama, Arizona, California, Colorado, Delaware, Florida, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

Z-Tel also provides business services in:

Georgia, Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Texas.

- Service packages include:

Residential: Z-LineHOME bundles local and long-distance service with Z-Tel’s proprietary enhanced services and traditional class features for a flat rate that varies by state. In 14 states, Z-Tel offers Z-LineHOME Unlimited, which offers the same enhanced and CLASS features, along with unlimited local and long-distance calling.

Business: Z-LineBUSINESS offers businesses both local and long-distance minute package options, along with custom calling features, Business Communications Center (Z-Tel’s suite of enhanced services), travel cards and toll-free service. Customers also can choose these services an a la carte basis.

- Residential packages range in price from \$29.99 to \$57.99. Business services are priced a la carte, with local lines costing \$6.99 to \$12.99 each in measured markets. In markets where there is unlimited local calling, local lines range from \$24.99 to \$34.99.

---

# CompTel

## Briefing on Unbundled Local Switching and the UNE-Platform

September 30, 2002

---

Scott Dulin, VP-Business Operations, ATX/Corecomm

Andoni Economou, COO & Executive Vice President, MetTel

David Malfara, President & CEO, REMI Communications

Kimberly Scardino, Senior Counsel, WorldCom

Tom Koutsky, VP-New Markets & Regulatory Affairs, Z-Tel

Jonathan Lee, VP-Regulatory Affairs, CompTel

Maureen Flood, Director-Regulatory and State Affairs, CompTel

---

# Impairment

- CLECs are impaired without ULS.
    - Access to capital
    - No wholesale alternative to ILEC switching
    - Hot cuts
      - ILECs cannot perform hot cuts at a scale that permits competition in the mass market.
      - Verizon's hot cut performance must improve 4400% to transition the current UNE-P customer base in New York to UNE-L (NYPSC comments, April 4, 2002).
      - Hot cuts expose retail customers to loss of service.
      - Non-recurring charges in many states make it uneconomic to transition to UNE-L.
      - The growth of competition will exacerbate the hot cut problem.
-

---

# Impairment

- UNE-P does not discourage facilities investment.
    - UNE-P enables a company to acquire a customer base so it can then make decisions about expanding its network reach.
    - The 1996 Act envisions all modes of entry (facilities, UNEs, and resale): it does not mandate a transition to facilities.
-

---

# Impairment

- If the FCC eliminates or further restricts ULS, it will not result in CLEC deployment of switches.
    - ❑ Impairment is not based solely on pricing; for example, the hot cut problem will remain.
    - ❑ As a result, 7 million customers will be placed back on the ILECs' networks.
    - ❑ This result will harm consumer welfare by eliminating choice and other benefits, like rate decreases and innovative service offerings.
-

---

# The 1996 Act Requires ULS

- Section 271 requires ILEC provision of ULS.
    - ❑ Under Section 10, the FCC cannot “remove” any items from the 271 checklist at this point in time.
    - ❑ The Section 10 forbearance standard is much more strict than Section 251(d)(2)’s “impairment” standard.
    - ❑ The RBOCs have presented no evidence under the Section 10 forbearance standard that would warrant a rewrite of the 271 checklist.
-



---

# UNE-P Enables Real Competition

- The FCC should expand the availability of UNE-P by eliminating the current use restrictions.
    - UNE-P is more than just resale: competitors invest in complementary technology instead of duplicating existing facilities.
    - Competitive pressure created by UNE-P benefits consumers.
      - WCOM's introduction of flat-rate BLS to Illinois.
      - ILEC rate reductions in Ohio and Michigan.
-

---

# UNE-P Enables Real Competition

- The switch-based business model is not viable in many markets.
    - ❑ UNE-P brings competition to small business and residential customers.
    - ❑ UNE-P enables competition to grow in suburban and rural markets, not just the densest urban areas that are available through UNE-L.
    - ❑ These customer classes have a right to enjoy the benefits of local competition.
-

---

# Role of the States

- States must retain the ability to supplement national unbundling rules, either under state statute or Section 251(d)(3).
    - ❑ This is consistent with the FCC's own desire for a “granular” approach and *USTA v. FCC*.
    - ❑ State commissions are better suited to tailor national rules to the conditions in their jurisdictions.
    - ❑ Rules that exceed the national minimum are not per se inconsistent.
-

---

# Role of the States

- NARUC and the state commissions support the preservation of UNE-P.
    - ❑ More than 20 state commissions have filed comments supporting the continued availability UNE-P.
    - ❑ States with the highest levels of competitive entry allow ULS beyond the FCC's current *UNE Remand* restrictions: NY (25%), IL (15%), PA (14%), TX (15%).
    - ❑ The FCC must not preempt state findings, which are based on a robust evidentiary record.
-